

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 62-85 are currently pending. Claims 1, 2, 4-28, and 52-61 have been canceled without prejudice; and Claims 62-85 have been added by the present amendment. The additions to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 11-16, 21, 23-28 and 58 were rejected under 35 U.S.C. § 112, second paragraph, regarding various limitations; and Claims 1, 2, 4-28, and 52-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,572,442 to Schulhof et al. (hereinafter “the ‘442 patent”) in view of U.S. Patent No. 5,963,916 to Kaplan (hereinafter “the ‘916 patent”), further in view of U.S. Patent No. 5,778,395 to Whiting et al. (hereinafter “the ‘395 patent”).

Applicants wish to thank the Examiner for the interviews granted Applicants’ representatives on November 3, 2009, and December 16, 2009. During the interview of November 3, 2009, Applicants’ representatives discussed the cited ‘916 and ‘442 patents and stated that the rejection of Claim 1 set forth in the Office Action was incomplete, and referred to passages that did not appear to be relevant within the cited references. At the conclusion of that interview, the Examiner agreed with Applicants’ interpretation of the Office Action, and indicated that a supplemental Office Action would be forthcoming to clarify the citations set forth in the Office Action. As a result, a supplemental Office Action was issued on November 12, 2009, in which the ‘395 patent was additionally cited.

During the interview of December 16, 2009, the teachings of the cited references, in particular, the ‘395 patent, were discussed with respect to a proposed new set of claims. At the conclusion of the interview, the Examiner agreed to reconsider the teachings of the ‘395

patent with respect to proposed new Claim 62. However, during the interview, the Examiner indicated her initial position that, because the '395 patent discloses that files to be backed up can be categorized as new, unchanged, updated, or modified, that the combined teachings of the cited references would render obvious the limitations recited in proposed Claim 62.

Applicants respectfully submit that the rejections of the claims under 35 U.S.C. § 112, second paragraph, are rendered moot by the present cancellation of Claims 11-16, 21, 23-28, and 58. Further, regarding the limitations recited in previous Claim 11 regarding when the user is willing to make a payment or whether the user intends to make a payment, Applicants note that those limitations were discussed during the interviews, and that the Examiner indicated that those rejections would be withdrawn.

Applicants respectfully submit that the rejections of the claims under 35 U.S.C. § 103(a) are rendered moot by the present cancellation of Claims 1, 2, 4-28, and 52-61.

The present amendment sets forth new Claims 62-85 for examination on the merits. New Claims 62-85 are supported by the originally filed specification and do not add new matter.¹

New Claim 62 is directed to a content data updating system including a host device and a terminal device, the host device comprising (1) a host communication unit configured to communicate with the terminal device; (2) a storage unit configured to store a plurality of the content data and a corresponding plurality of associated data, each of the associated data being attached to a corresponding content data; and (3) a control unit configured (a) to identify a plurality of requested content data based on a user request sent from the terminal device, and (b) to control sending of the associated data of the plurality of the requested content data to the terminal device. Further, Claim 62 recites that the terminal device includes (1) a terminal communication unit configured to communicate with the host device;

¹ See, e.g., Figures 3-6 and the discussion related thereto in the specification.

and (2) a terminal control unit configured (a) to cause the terminal communication unit to send the request to the host device based on user input, (b) to cause the terminal communication unit to receive the plurality of the associated data, (c) to determine whether each of the plurality of the requested content data is new content data by checking the corresponding associated data sent by the control unit of the host device, and (d) to control updating of a storage of the terminal device so that only the new content data, as determined by the results of the checking, is stored into the terminal device.

The '442 patent is directed to a system for distributing subscription and on-demand audio programming, including a library containing a plurality of audio program materials stored in a digital format; a program selection module that allows a subscriber to request program materials contained within the library; and an information request manager that selects program materials chosen by the subscriber from the library and forwards the selected program material to a data transmission system for distribution to the subscriber.

However, Applicants respectfully submit that the '442 patent fails to disclose a host device that includes a storage unit configured to store a plurality of content data and a corresponding plurality of the associated data, each of the associated data being attached to a corresponding content data, as recited in Claim 62.

Further, Applicants respectfully submit that the '442 patent fails to disclose a terminal control unit configured to cause the terminal communication unit to receive a plurality of associated data, to determine whether each of the plurality of the requested content data is new content data by checking the corresponding associated data sent by the control unit of the host device, and to control updating a storage of the terminal device so that only the new content data, as determined by the results of the checking, is stored into the terminal device, as recited in new Claim 62.

While column 6 of the '442 patent discloses that audio versions of newspapers can be digitized and delivered to the library, and are thus available to a user, the '442 patent is silent regarding the claimed associated data, the sending and receiving of associated data, and the checking of the associated data, as recited in Claim 62. Applicants respectfully submit that there is no disclosure within the '442 patent of associated data associated with an audio version of a newspaper. For example, Applicants note that the audio version of a daily newspaper could have the "date" of the newspaper as part of the actual audio content itself, and that associated data is not necessarily present in the teachings of the '442 patent.

The '916 patent is directed to a method for enabling a remote user to preview a portion of a prerecorded music product from a network website that contains preselected portions of different prerecorded music products. In particular, the '916 patent discloses that, once the user accesses the website, the user may choose at least one preselected portion of a prerecorded music product from a central host server, receive the chosen preselected portion of the recorded product, and interactively preview the chosen product portion of the prerecorded music product. Further, in an alternative embodiment, the '916 patent discloses a kiosk system in which the user can interact with a touch screen to listen to or preview music. In particular, as shown in Figure 5A, the user can be shown the screen 2, in which the user is asked to select a category to search, the categories including "radio station hits," "billboard," and "new releases."

However, Applicants respectfully submit that the '916 patent fails to cure the deficiencies of the '442 patent with respect to the associated data and the checking of the associated data recited in Claim 62. In particular, Applicants respectfully submit that the '916 patent fails to disclose a host device that includes a storage unit configured to store a plurality of content data and a corresponding plurality of associated data, each of the associated data being attached to a corresponding content data.

Further, Applicants respectfully submit that the '916 patent fails to disclose a terminal device including a terminal control unit configured to determine whether each of the plurality of the requested content data is new content data by checking the corresponding associated data sent by the control unit of the host device, and to control updating of a storage of the terminal device so that only the new content data, as determined by the results of the checking, is stored into the terminal device, as recited in Claim 62.

Rather, at most, the '916 patent discloses that music data can be categorized into folders, one of which is entitled "new releases," and that a user can preview the music data within that folder. However, Applicants respectfully submit that the '916 patent is completely silent regarding the association of associated data with content and the transmission of associated data from a host device to a terminal device, as well as a checking of the associated data, and the recording of only the new data, as determined by the results of the checking, into the terminal device, as required by Claim 62.

The '395 patent is directed to a system for backing up files from disk volumes of multiple nodes of a computer network through a common random access backup storage means. In particular, the '395 patent discloses that, as part of the backup process, duplicate files may be identified across nodes so that only a single copy of the contents of the duplicate files is stored in the backup storage means.

Further, as shown in Figure 3, the '395 patent discloses that during the backup of a disk volume on the node, the backup process, which is performed by an agent 108, separates all files on the source disk volume into four categories: new, unchanged, updated, and modified.² Further, the '395 patent discloses that "new" files are those that do not exist on the same directory at the time of the previous backup, and that "updated" files are files that have been unchanged for more than a certain number of days at the time of the previous

² See '395 patent, column 7, lines 61-65.

backup, but which have changed since the last backup, and that all other files are classified as “modified.”

Further, the ‘395 patent discloses that for each new or updated file, the software searches through a global directory database 145 for a matching file, and that if the new or updated files are not in the global directory database, the software adds them to the global directory database 145.

In addition, the ‘395 patent discloses that the format of the backup data file 144 shown in Figure 3 is as shown in Figure 6. In particular, the ‘395 patent discloses that each file consists of four main sections, including a header section, a FileInfo section, a FileInfoPtrs section, as well as a Data Blocks section 405. Further, as shown in Figure 7-1, the ‘395 patent discloses that one of the fields in the FileInfo portion for a file is the “isGlobal” field, which is “1” if the file is a new or updated file, and “0” otherwise.

However, Applicants respectfully submit that the ‘395 patent fails to disclose a terminal control unit of a terminal device that is configured to determine whether each of the plurality of the requested content data is new content data by checking the corresponding associated data sent by the control unit of the host device, as recited in Claim 62. Rather, the ‘395 patent merely discloses that a field in a data file indicates whether the data of the file is new or updated. The “isGlobal” field does not indicate that the corresponding data is new, only that it is new **or** updated.

Moreover, Applicants respectfully submit that the “isGlobal” data field is part of the backed up data, but is not associated data that is sent from a host device to a terminal device and is then checked, as required by Claim 62. Rather, Applicants respectfully submit that the ‘395 patent discloses a system in which a file is determined as “new” by comparing a previous directory and a current directory, not based on associated data that is sent from a host device, as required by Claim 62.

Further, Applicants respectfully submit that the '395 patent fails to disclose a terminal control unit of a terminal device that controls updating of a storage of the terminal device so that **only** the new content data, as determined by the results of the checking of the associated data, is stored into the terminal device, as recited in Claim 62. Rather, as columns 7 and 8 of the '395 patent make clear, in the '395 system, new, updated, and modified files are all backed up, not just the new files. Thus, the '395 patent does not disclose that only the new content data determined by the results of the checking is stored in the terminal device, as required by Claim 62. Rather, the '395 patent discloses that new, updated, and modified files are backed up, and that the global directory database is checked to determine whether the new or updated files were previously backed up.

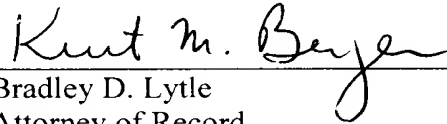
Thus, no matter how the teachings of the '442, '916, and '395 patents are combined, the combination does not teach or suggest a terminal control unit configured to determine whether each of the plurality of the requested content data is new content data by checking the corresponding associated data sent to the control unit of the host device, and to control updating of a storage of the terminal device so that **only** the new content data, as determined by the results of the checking, is stored into the terminal device, as recited in new Claim 62. Accordingly, Applicants respectfully submit that new Claim 62 (and all associated dependent claims) patentably defines over any proper combination of the '916, '442, and '395 patents.

New, independent Claims 84 and 85 are directed to a terminal device and a method implemented by a terminal device, respectively, and recite limitations analogous to those recited in new Claim 62. Accordingly, for the reasons stated above, Applicants respectfully submit that new Claims 84 and 85 patentably define over any proper combination of the '442, '916, and '395 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in cursive script, reading "Kurt M. Berger", is written over a horizontal line.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Kurt M. Berger, Ph.D.
Registration No. 51,461

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